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EXAMINER

WILLETT, STEPHAN F

| ART UNIT | PAPER NUMBER |
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2141

DATE MAILED: 07/30/2003

31

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

| | |
|-------------------------------|-----------------------------------|
| Application No. 09/160,424 | Applicant(s) Schneebeli et al. |
| Examiner Stephan Willett | Art Unit 2141 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on Apr 28, 2003

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

4) Claim(s) 1-22, 24-31, 33-41, 43-46, and 48-54 is/are pending in the application.

4a) Of the above, claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-22, 24-31, 33-41, 43-46, and 48-54 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claims _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some* c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) The translation of the foreign language provisional application has been received.

15) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) Paper No(s). _____

2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) Other: _____

Art Unit: 2141

DETAILED ACTION

Drawings

1. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

Claim Rejections - 35 USC § 103

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103© and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 14, 30, 37, 41, 46, 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beck et al. with Patent Number 6,026,371 in view of Inohara et al. with Patent Number 6,182,111.

Art Unit: 2141

5. Regarding claim(s)1, 14, 30, 37, 41, 46, 51, Beck teaches production servers that respond to user's request for content, col. 2, lines 34-60, 57-60 with varying database configurations, col.

2, lines 47-50 in a multitude of servers, col. 1-2, lines 67-1. Beck teaches a staging server that enables an administrator to generate content, col. 3, lines 10-12, and edit or test content, col. 3, lines 39-42. Beck teaches replacing the content on the production server, col. 3, lines 29-32.

Beck teaches limiting access to content on the staging server to administrators, col. 3, lines 49-50

and administrators "can select to have this material imported to the staging server database", col.

3, lines 33-34 which is not alterable by users, etc. Beck teaches the invention in the above

claim(s) except for explicitly teaching a transferring content at the same time to more than one

production server. In that Beck operates to publish data, the artisan would have looked to the

content network arts for details of implementing a publishing system. In that art, Inohara, a

related network content provider, teaches "this necessary data may be cached at two or more

second servers among a plurality of servers", col. 5-6, lines 66-1 in order to provide data. Inohara

specifically teaches "a request is transmitted at the same time to a plurality of servers", col. 14,

lines 22-24, col. 8, lines 40-47, col. 22, lines 36-39 and col. 23, lines 38-4-. Further, Inohara

suggests that "the first server transmits part or whole of a list of caches possessed by the first

server to one or more second servers", col. 6, lines 45-47 which will result from implementing

publish commands. The motivation to incorporate sending data to multiple servers via a standard

multicast command insures that data redundancy is timely maintained.. Thus, it would have been

obvious to one of ordinary skill in the art to incorporate simultaneous data updates as taught in

Beck into the publisher described in Inohara because Inohara operates with network content and

Art Unit: 2141

Beck suggests that optimization can be obtained when publishing content. Therefore, by the above rational, the above claims are rejected.

6. Claims 1, 7, 13-16, 25, 33-34, 38, 41, 46, 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Butman et al. with Patent Number 5,867,667 in view of Reisman with Patent Number 6,125,388.

7. Regarding claims 1, 7, 13-16, 19, 25, 33-34, 38, 41, 46, 52, Butman teaches a system to publish network content. Butman teaches first and second production servers as “a domain communications server, is in communication with a number of client side communications servers”, col. 12, lines 43-45. Butman teaches a staging area to publish content on command as “communicating directly only with domain server, to send information to any of the others in communication with domain communications server”, col. 13, lines 18-20. Butman teaches automatically transferring content at the same time in response to a command as “information may be disseminated from client side communications server to any or all of the other client side communication servers”, col. 12, lines 64-66, but through domain server. Butman teaches the invention in the above claim(s) except for explicitly teaching a scheduling system. In that Butman operates to publish data, the artisan would have looked to the content network arts for details of implementing a publishing system. In that art, Reisman, a related network content provider, teaches “information transport component [also a staging server] provides a general purpose facility for sending and fetching information objects between an end user’s computer (the client) and a central server”, col. 10, lines 28-31 in order to provide data. Reisman specifically teaches “advanced controls for scheduled calling can be included in the application-

Art Unit: 2141

specific configuration used in preparing the containing information product for publication", col. 14, lines 6-8. Further, Reisman suggests that "user fetch-send protocol working in cooperation with server fetch-send protocol controls the desired information object transport function, calling remote server and exchanging data objects", col. 15, lines 23-26 will result from implementing the scheduled publish commands. The motivation to incorporate a data scheduling insures that data is timely sent. Thus, it would have been obvious to one of ordinary skill in the art to incorporate the schedule system as taught in Reisman into the publisher described in Butman because Butman operates with network content and Reisman suggests that optimization can be obtained when publishing content. Therefore, by the above rational, the above claims are rejected.

8. Claims 1-22, 24-31, 33-41, 43-46, 48-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ferrel et al. with Patent Number 6,199,082 in view of Change et al. with Patent Number 6,134,584.

9. Regarding claims 1, 5, 7, 13-16, 19, 25, 33-34, 38, 41, 46, 52, Ferrel teaches a system to publish network content. Ferrel teaches first and second production servers at col. 9, lines 34-37. Ferrel teaches a staging area to publish content on command at col. 10, lines 23-25. Ferrel teaches automatically transferring content at the same time as "the title and content are published together", "this is called dynamic title synthesis or dynamic synthesis, and allows content to be continually updated without need to modify and update", etc, "with OLE a particular application can create a structured hierarchy where the root file itself has many substorages", "the use of high bandwidth data delivery is within the scope of the present application", "it then acquires this

Art Unit: 2141

information from the publication storage or local storage at customer workstation [which could also be considered a production server] and organizes it" col. 10, 11, lines 24-25, 59-61, 1-3, 37-38 and 53-55, but also "a set of replicated application servers (i.e. application servers which run the same service application or applications) that provide access to replicated (and locally stored) copies of service 'content' data", col. 15, l. 1-5. Ferrel teaches the invention in the above claim(s) except for explicitly teaching a scheduling system. In that Ferrel operates to publish data, the artisan would have looked to the content network arts for details of implementing a publishing system. In that art, Change, a related network content provider, teaches downloading of data, col. 5, lines 52-54 in order to provide data at a specified time. Change specifically teaches "scheduling data download" at col. 5, lines 59-63. Further, Change suggests that "this invention includes the abilities of allowing the user to schedule data download from those web sites requiring user id and password", col. 6, lines 63-65 will result from implementing the scheduled publish commands. The motivation to incorporate a data scheduling insures that data is timely sent. Thus, it would have been obvious to one of ordinary skill in the art to incorporate the schedule system as taught in Change into the publisher described in Ferrel because Ferrel operates with network content and Change suggests that optimization can be obtained when publishing content. Therefore, by the above rational, the above claims are rejected.

10. Regarding claim(s) 2, Ferrel teaches a file server at col. 9, lines 33 and 50. Thus, the above claim limitations are obvious in view of the combination.

11. Regarding claim(s) 3, 10, 17, 20-22, 30, 37, 43, 48, Change teaches a firewall and user security as "user id and password if required", col. 6, lines 15-17 and in Ferrel teaches "each

Art Unit: 2141

storage has its own access rights", col. 12, lines 59. Thus, the above claim limitations are obvious in view of the combination.

12. Regarding claim(s) 4, 18, 35, 39, 44, 49, Ferrel teaches processing for a plurality of servers at col. 11, lines 32-35. Thus, the above claim limitations are obvious in view of the combination.

13. Regarding claim(s) 6, 9, 11, 24, 27-28 and 31, Ferrel teaches adding or changing additional content at col. 10, lines 55-58. Thus, the above claim limitations are obvious in view of the combination.

14. Regarding claim(s) 8, 12, 26, Change teaches canceling content delivery at col. 6, lines 47. Thus, the above claim limitations are obvious in view of the combination.

15. Regarding claim(s) 11, 12, 29, 36, 40, 45, 50, Ferrel teaches providing information such as log files and status information at col. 15, lines 30-42. Thus, the above claim limitations are obvious in view of the combination.

16. Regarding claim(s) 51, 53-54, Ferrel teaches replicating content and verifying content at col. 15, lines 1-10. Thus, the above claim limitations are obvious in view of the combination.

Response to Amendment

17. The broad claim language used is interpreted on its face and based on this interpretation the claims have been rejected.

18. The limited structure claimed, without more functional language, reads on the references provided, while the very limited interpretation of the teachings of Butman and Reisman to

Art Unit: 2141

combine them is in contradiction to the claims presented. Thus, Applicant's arguments can not be held as persuasive regarding patentability.

19. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the cited portions of the references and relevant portions of the reference or as they relate to the examiner's arguments.

20. Applicant suggests "Beck does not disclose ... the transfer of staging content at substantially the same time", Paper No. 30, Page 8, lines 10-12. The references should not be read in a vacuum, the teachings are not mutually exclusive, and must be taken in context of what was reasonable based on the subject matter as a whole as would have been understood at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Clearly, Beck inherently discloses multicasting of data as is well understood in this art to a multitude of servers, col. 1-2, lines 67-1. "Explicitly does not teach" only means with regard to exact words or inherent teachings, but surely includes implicit, implied and obvious teachings, especially when vague words are claimed, as has been argued by the Examiner. If the applicant intends a more defined definition, as argued with "staging server" and "rollback command", then it should be specified in the claims so the public is clear on what is protected. Thus, Applicant's arguments can not be held as persuasive regarding patentability.

21. Applicant suggests "Beck does not disclose or suggest a firewall operable to limit access to the staging server", Paper No. 30, Page 8, lines 18-19. The references should not be read in a vacuum, the teachings are not mutually exclusive, and must be taken in context of what was

Art Unit: 2141

reasonable based on the subject matter as a whole as would have been understood at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Clearly, Beck limits the editing of data at the staging database server or servers to administrators (first level) and excludes users (second level). Thus, Applicant's arguments can not be held as persuasive regarding patentability.

22. Applicant suggests "neither Ferrel or Change", Paper No. 8, Page 7, lines 7-8 and Paper No. 20, Page 16, lines 11-13 teach a rollback or undo command. However, an undo command would be part of the "advanced MPS features", col. 11, lines 32-33 and "the host data center also includes a number of administrative services ... backup, system security", col. 15, lines 16-19 in Ferrel. Said backup features are equally applicable to the user, production and staging servers, and especially an administrator. Also, the applicant admits Beck "discloses that an advertisement can be exported ... after it has been previewed", Paper No. 30, Page 9, lines 13-14, thus rolling back the advertisement. Thus, Applicant's arguments can not be held as persuasive regarding patentability.

23. Applicant suggests "this publication distribution point is not a staging server used to generate content". "Rather, the publication distribution point merely stores the layout and content components for a publication for download by users", Paper No. 11, Page 14, lines 15-17, Paper No. 20, Page 15, lines 18-19 and Paper No. 30, Page 12, lines 18-20, and "neither the domain communications server nor the client side communications servers are used as staging servers", Paper No. 30, Page 10, lines 19-20. As claimed and argued, a staging area is very broad and the distribution point is a staging area, with even functionality to suggest some sort of

Art Unit: 2141

amorphous staged event occurred or was “generated” as argued, thus applicant’s arguments are not reasonable based on the subject matter as a whole as would have been understood at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains.. Thus, Applicant’s arguments can not be held as persuasive regarding patentability.

24. Applicant suggests “neither Ferrel or Change disclose”, Paper No. 8, Page 6, lines 20 “a staging server having restricted access”, Paper No. 20, Page 16, lines 8-9, Paper No. 30, Page 13, lines 4-6 However, Change teaches “user id and password if required”, col. 6, lines 15-17 and in Ferrel teaches “each storage has its own access rights”, col. 12, lines 59, thus based on the rights granted to the password will determine the level of access to said data. Thus, Applicant’s arguments can not be held as persuasive regarding patentability.

Conclusion

25. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure is disclosed in the Notice of References Cited. A close review of the references is suggested. The other references cited teach numerous other ways to use staging servers, thus a close review of them is suggested.

26. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephan Willett whose telephone number is (703) 308-5230. The examiner can normally be reached Monday through Friday from 8:00 AM to 6:00 PM.

27. If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, David Wiley, can be reached on (703) 308-5221. The fax phone number for the

Art Unit: 2141

organization where this application or proceeding is assigned is (703) 746-7239.

28. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-9605.



Stephan Willett

Patent Examiner

July 17, 2003